

BOARD OF ZONING APPEALS
MINUTES
June 23, 2009

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas was held at 1:30 p.m., on June 23, 2009, in the MAPC Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, and Kansas.

The following board members were in attendance:

BICKLEY FOSTER, DWIGHT GREENLEE, STEVE ANTHIMIDES, JOHN MARKER, JOSHUA BLICK AND BENJAMIN STIFF arrived at 1:37pm.

Board members absent:

CHARLES YOUNG

City of Wichita staff present:

JEFF VANZANDT– Law Department

City of Wichita staff absent:

JR COX – Office of Central Inspection

The following Planning Department staff members were present:

JESS MCNEELY, Secretary.

YOLANDA ANDERSON, Recording Secretary

GREENLEE We will start the meeting at 1:30PM. The first thing on our agenda is to approve the minutes for Special Hearing May 12, 2009.

ANTHIMIDES I move that the minutes of May 12, 2009 be approved.

BLICK Seconded

GREENLEE All in favor say Aye?

Motion carries 5-0 unanimously

GREENLEE We will now hear request on BZA2009-19 City sign code variance request to exceed the 400 square foot size limitation for a building sign in “CBD” Central Business District zoning with a temporary sign. Jess, are you ready?

MCNEELY Jess McNeely, Planning Staff, here to present Case BZA2009-19, a sign code variance to exceed size limitation for building signs in “CBD” zoning.

BACKGROUND: The Sign Code limits building signs in CBD Central Business District (“CBD”) zoning to a maximum of 20% of a building façade, and then to a maximum of 400 square feet in size. The applicant wishes to apply what their agent calls a “temporary lifestyle panel” sign to the south façade of the 11-story tall, half-block long building on the

site. The proposed sign is an image which can be thermally bonded to the building masonry, and can be removed. The applicant could have an image applied to their building without lettering or trademarks without a variance; this would be viewed as a mural, and not regulated by the sign code. The applicant will have a similar mural, with no advertising, on their east façade. Because the south facing image in question has advertising, the OCI Director has determined that it is a sign. The applicant wishes this sign to be 3,234 square feet in size, which exceeds 20% of the building's south façade (2,912 square feet), and exceeds the code limitation of 400 square feet for a building sign. Therefore the applicant requests this variance. The proposed sign would be externally uplit from lighting on an adjacent building's roof. As an externally lit sign, the sign will not project light. The applicant's logic for the temporary sign is related to the proposed redevelopment and "rebranding" of this downtown office building, and their desire for a bold marketing effort, which includes maximum visibility from downtown and the elevated Kellogg freeway. See the attached graphic and letter from the applicant's agent.

All properties surrounding this site are also zoned CBD. The application area is within the environs of two historic buildings, the Old City Hall and the Carnegie Library, both west of the site and not in view of the proposed sign. Because the site is within historic environs, the Historic Preservation Board heard a request for this sign, and recommended approval. All properties surrounding the application area are used for offices, similar to the proposed use of the application area. Other surrounding land uses include surface parking and a parking garage west of the site. The nearest residences with a view of the proposed sign is a multi-family residential building over three blocks and 1,400 feet south of the site.

ADJACENT ZONING AND LAND USE:

NORTH	CBD	office, commercial, parking
SOUTH	CBD	office, commercial, parking
EAST	CBD	office, commercial, parking
WEST	CBD	office, commercial, parking

The five criteria necessary for approval as they apply to variances requested.

UNIQUENESS: It is staff's opinion that this property could be considered unique. The Sutton Place Building was built in 1924, and was last renovated in the 1960s. The building is one of the few downtown office buildings taller than 10 stories, and is one of the few tall downtown buildings with clear visibility from Kellogg. The proposed "rebranding" concept is unique to older buildings needing renovation to be marketable. The temporary sign concept is unique in that the proposed sign would be for a determined marketing period, and could have a variance sunset provision in which the rebranding sign would be removed.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance for building sign size would not adversely affect the rights of adjacent property owners. All properties facing the proposed sign are zoned CBD. The vast majority of the properties directly facing the sign, within three blocks, are used for surface parking.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the sign code could constitute a hardship upon the applicant. The 400 square foot building sign size limit

would not be visible from Kellogg. Likewise, a 400 square foot sign would not have the desired effect within a 14,560 square foot southern building elevation.

PUBLIC INTEREST: It is staff's opinion that the requested variance for a building sign size increase would not adversely affect the public interest, as adequate identification of this redevelopment project, and successful redevelopment of this historic building is certainly in the public interest. The proposed sign size is visually proportional to the larger building for a temporary "rebranding" sign. The Historic Preservation Board found the proposed sign in the public interest, given its location within historic environs.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance for increased building sign size does not oppose the general spirit and intent of the Sign Code. The Sign Code restriction for building sign size does not take into consideration the scale of this specific building, or the purpose of a temporary redevelopment sign. The spirit and intent of the sign code is for adequate identification of buildings, this variance request is consistent with that spirit and intent.

RECOMMENDATION: It is staff's opinion that the requested sign size for this office building redevelopment project is appropriate, given the scale of the building and the temporary nature of the "rebranding" sign. If the Board determines that the necessary conditions to grant a variance exist, the Secretary recommends that the variance to exceed 20% of a building façade, and the 400 square foot size limitation for a building sign in CBD zoning with a 3,234 square foot building sign be GRANTED, subject to the following conditions:

1. The site shall be developed in conformance with the approved elevation drawing.
2. The applicant shall obtain all permits necessary to construct the signage and the signage shall be erected within one year of the variance granting, unless such time period is extended by the BZA.
3. The sign shall be removed within two years of approval by the BZA, unless such time is extended by action of the BZA.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

The agent for the applicant is here for questioning. Are there any questions of staff?

FOSTER Does the sign code have anything in it that allows temporary signs?

MCNEELY No, the sign code does not address temporary signs.

FOSTER How can we approve it if there is nothing in the sign code?

MCNEELY Kurt Schroeder makes interpretations of the code. This is not a permanent sign, the applicant has requested it to be up for 1 year. This is not a temporary banner, it is a sign. However, the sign can be limited as to how long it will be retained.

FOSTER How can we authorize this when it is temporary? Is there temporary zoning?

MCNEELY No, there is not temporary zoning. We will be approving a sign that has a time limit. We do have conditional uses with set time limits on how long they can exist. Such as a sand pit, they can extract sand for so long then they have to shut down. We have conditions written that allows the conditional use to expire.

FOSTER I do understand a sand pit being temporary. How did you get the 400 square feet?

MCNEELY The sign code limits you to 20 % of a building façade, not to exceed 400 square feet.

FOSTER Does it includes all of the letters that goes down the side? Is not this 3,234 feet from top to bottom?

MCNEELY Exactly, OCI considers this entire image as the sign.

FOSTER So, you are asking for approval on a sign eight times larger the normal permitted signage in the downtown area? Are you saying the pictures are not considered part of the sign?

MCNEELY In this case they are. I am saying that if the words were omitted, they could put up the pictures as a mural which would not be considered a sign. With the words, OCI looks at it in entirety from top to bottom as a sign.

FOSTER You are considering all of it to be the sign?

MCNEELY Yes, OCI reviewed this and determined it is a sign.

FOSTER You are not only requesting approval for this sign for two years, but they can come back and ask for an extension.

STIFF I consider it marketing and advertising. I think we should approve it for 1 year and come back for renewal afterwards.

FOSTER We do not want to get too far ahead here.

VANZANDT Mr. Cox is checking on it for me. I want to confirm that Historic Preservation Board approved it for one year.

MCNEELY Even if Historic Preservation approved it for a year, it is their approval and BZA will not trump the HPB approval.

FOSTER Did HPB approve this for 1 year or not?

MCNEELY I was not aware that they had a set a time limit.

FOSTER Why would they limit it to 1 year? You are the lawyer for their Board right?

VANZANDT It was limited for one year. The Historic Preservation approved temporary signage limited to 1 year.

FOSTER I used to serve on that board. I served as chairman twice. I want to know why that board used the words “The Historic Preservation Board found it to be in the Public Interest”?

VANZANDT No, they did not use those words. I do not have the exact language. They found it not to be in violation of the environs for historic buildings.

FOSTER That is different from stating it is in the public interest.

MCNEELY What we are trying to demonstrate when we list the five criteria, is that another board reviewed it and did not find it in conflict with public interest.

FOSTER That is not what this says.

GREENLEE Any more questions of Jess?

MARKER How is this signage applied?

MCNEELY I will let the agent speak on the application of the signage.

Dave Hoffman, Senior Vice President of Law Kingdon Architecture, 345 Riverview, Wichita KS as agent for Real Development. First addressing the application, it is a thermally applied plastic. The image and text are created digitally. When the application occurs, it is a thermal heat application which activates the adhesive which allows it to stick to the substrate, which is painted bricks currently. It will be applied in sections, not one big roll to form the composite image. Likewise, when it comes time to remove, the heat is applied the adhesive fails which can then be pulled off and you will be left with the original brick currently there.

BLICK With it being thermal, what if it gets damaged with high winds? Will it come off or tear? Will your company come back through to repair it?

HOFFMAN Hopefully that will not occur. It would take a very strong wind to pull that off. On an incremental basis, if you look at it per square foot, a very high wind would have to cause a negative 30 lbs of suction. Certainly, 30 lbs of capability is accommodated in each square foot. I do not think that will happen. But if that occurs, we will have to go back with remedial repairs.

BLICK What is the life expectancy on that type of application?

HOFFMAN Being plastic and being a printed medium, it has a very long life span. This material is being used in a permanent application elsewhere in the country. We are using it on a temporary basis because it suits the application area. You are looking at 10 or 15 years before it wears, if they chose to go that long.

BLICK I have seen some vinyl signs that lasted only 6 months to a year. Especially on the South side, where there is a lot of sun.

HOFFMAN Yes, that is true. It has severe exposure.

FOSTER What would you say is the hardship for the applicant to not be able to do this?

HOFFMAN This is a difficulty we all face in the downtown area trying to redevelopment properties that are fairly old. This property was built in 1924. It started out as the Shriner's meeting building, and in 1960 was brought up to the current stage. The plan for this building is not simply to just put up a temporary sign and try to lease it. We have been actively working for the past eight months on drawings to completely redesign the exterior of this building. We are ramping up, as part of the rebranding effort, to lease that building out with a new facade, a new top, new cornice work, and the color of the building will be changing completely. It is part of the overall effort. An effort most of the downtown property owners are confronting trying to compete with outlying areas with newer buildings. You have older buildings that are competing with newer buildings and this is a unique situation. You are at a hardship in this context trying to do this. You can do it with rebranding. A new skin will give it an updated look and there is also some interior work planned. All of those are issues newer buildings in outlying areas do not have to consider. This is a unique hardship to owners trying to lease properties downtown to compete in that manner. Without this signage, it will be difficult to draw interested renters.

FOSTER Do you think the economy has something to do with it?

HOFFMAN I think that is a definite possibility. In our office, we are seeing a drop off of overall leasing in commercial offices in the area due to the economy. I think more energy is being expended to keep these projects viable. That is an opinion on my part.

STIFF Do you think it is reasonable to have them come back in one year?

HOFFMAN The time line will need to get underway to get the one year.

GREENLEE Is the sign produced? And when will it be ready to go?

HOFFMAN No. The sign is not developed. I cannot answer when it will be ready to go but not too long.

GREENLEE Do you know how big the upper text portion is on that sign?

HOFFMAN Eyeballing, it looks like a fifth of the 3,234 square foot sign. It looks like 600 square feet plus or minus.

GREENLEE If you can move the side text up and put it all up at the top and stay with in the 400 square feet you will not need an approval right?

HOFFMAN Well having the text size readable to Kellogg is our main concern first and secondly as you come into the downtown area. I am not certain if that text size would be readable and if it would meet our needs.

GREENLEE Well, your website address is not readable anyway and your “downtown revolution in progress” is not saying much.

BLICK Jess go back a few slides, I noticed that there are windows. Will those windows be covered up?

HOFFMAN The windows are not mandatory and yes, they will be covered up.

BLICK Right there, is that an emergency stairwell?

HOFFMAN Yes.

GREENLEE Any other questions?

STIFF Why are you asking for two years?

HOFFMAN The one year is for the historic board. We wanted two years to give us some construction timing. Also, given the ramping up of pricing and construction process with the work that has to be done on the exterior, we will be starting up on the north side and it may be two years before we get around to the south side.

STIFF Why is it only being approved for 1 year?

VANZANDT It was set forth to determine what time limit constituted temporary. It was determined that it will take about a year to get the sign in place and it will be allowed 1 year to remain without specification to it. It was some type of control mechanism to get a definition on a timeline for temporary sign placement. I do not think there was any clarification to when it commences.

STIFF I think it is a good control mechanism. In light of the economic downturn, it could be another 18 to 24 months before the economy turns around. Our local economy is behind that of the east and the west coast economy which is what the forecast indicators are based on. It could take 2 years before economy turns around. So, it is a good control mechanism. Should they

need another two years, they can come back for an extension.

GREENLEE Steve do you have a question?

ANTHIMIDES Is our timeline relevant to that of Historic Preservation timeline? Do we have to adhere to what they say?

MCNEELY If it is going to be temporary, we need to view what temporary is, since it is part of their uniqueness. There are conditions with every variance that they have 1 year after approval to have it in place. We recommended two years from the time approval is granted to have the sign in place. We are trying to prevent it from coming back to this board again in case the construction extends. We are trying to project out as far as we can. If HPB has to review, that will be up to them. We are just trying to make a recommendation that works for this board and the applicant.

ANTHIMIDES Will the two boards decisions conflict?

MCNEELY Neither one of the boards trumps the another. If this board approves two years and HPB approved one year, they will have to go back to HPB to exceed the limit under the HPB.

GREENLEE Then can HPB tell them to remove it even though we approved it?

MCNEELY HPB appeals go to City Council.

MILLER What HPB reviewed considers whether or not this sign would encroach, damage, or destroy designated landmark in this area. They approve it for one year. If you approve it for 2 years, the variance would stand. If HPB does not grant them an extension, the applicant can appeal the decision. It would go before the Council to hear it and the Council could grant the additional one year or whatever time limit they think is sufficient.

STIFF I do see a conflict. I do not think we should go against what HPB is doing. It makes sense to go along with the HPB recommendation in the spirit of good governance.

FOSTER Is the applicant finished?

GREENLEE No, he is still answering.

MARKER The remodeling of the building, the sign will be removed, and how long with that take?

HOFFMAN I really cannot answer that, but yes the sign will be removed. It could be one year or 1 ½ years before we get to it.

STIFF Do you believe in oversight?

HOFFMAN That is what I do. Yes, I believe in oversight.

STIFF Will you have a problem with coming back within one year?

HOFFMAN No, I do not have a problem. No matter what happens here today, I will have to come back before the HP board after 1 year.

GREENLEE Any other questions of the applicant? Being none, I will turn discussions over to the board.

FOSTER Jess, you know this variance has to meet the 5 criteria. If any one fails, it will not be approved. Let us look at hardship, this says a 400 square foot sign size limit would not be visible to Kellogg. If that was adopted by this board, does that mean anyone who has the same problem with a 400 foot sign can come and request a variance to make their sign visible to Kellogg? This sets a precedent. I am not talking about the Arena Sign because travelers will be driving to that facility. Have we ever done a hardship like that before?

MCNEELY The Telecom SBC sign, but I am not familiar with the specifics. Let's look at the Arena, it would determined what the visibility should be for the height and size of facade. In this case, this property is unique because of its size. I addressed more than visibility from Kellogg but also the desired effect on the size and height of this building.

FOSTER Would this set a precedent?

MCNEELY Potentially yes, but if other property owner's do not have this size of a façade, conditions could vary, nor would they have this uniqueness.

FOSTER You are telling me that the sign regulations do not address this particular temporary signage, right?

MCNEELY The Sign Code addresses banners as a temporary signage. However, we see this temporary signage as a condition to limit how long the sign can remain.

GREENLEE Any other questions?

FOSTER We could make a motion that this is not allowed by the sign code. This is one theory. If you look at hardship, we would be setting a new precedent that would allow several businesses to put up a temporary sign because they are not readable from Kellogg. That would set a new precedent. How can we say it meets the spirit and intent when the signage is 8 times over the allowable size. How do we justify 8 times. This manner of signage is not addressed in the temporary signage code. I am not willing to say that our downtown has gone to pot to allow this type of signage that is 8 times over the signage regulations limits. How many vacant offices do we have

downtown? I do not understand how the Historic Board can reach a decision to allow this sign.

STIFF To me, the Historic Preservation Board is bending over backwards granting one year. Maybe, they were trying to work it out for them. Two years is a little excessive and to me, a year was really bending over backwards.

GREENLEE Is there a motion?

FOSTER I would like to make a motion that such a temporary sign is not permitted under the sign code. Therefore we do not have to proceed with the 5 criteria. That it does not meet the 5 criteria to approve the temporary sign. I have written these kinds of things. I have never seen such a regulation. It is generally banners for events. How many places do we have downtown that the use these types of things? I do not understand how HPB reached a decision.

STIFF Seconded.

GREENLEE It has been moved and seconded. Any further discussion?

BLICK What are we approving here?

GREENLEE Based on Mr. Foster's motion, there is nothing under the sign code regulations addressing this type of temporary signage; so, we have no jurisdiction on it and it is denied.

FOSTER It is the simplest way to go. We can go through the five criteria. Is it unique? Don't we have other tall building in downtown?

STIFF This being the first time, always makes it unique.

GREENLEE Mr. Vanzandt, do you have anything to say about Mr. Foster's motion?

VANZANDT Jess had indicated that Kirk Schroeder did say this is a sign. This is a temporary sign. The sign code does not address temporary signs, but it does not say it will not allow any temporary signage. If we say we do not have any regulations to rule on it, where will that leave the applicant? We will have to go back and amend the signage regulations to go forward on this. I can tell you there will be more of these signs in the future. As far as HPB, they had nothing to address in regards to time limits, nevertheless they reach a decision on a one year limit. Mr. Schroeder indicated that it is a temporary sign. I would have to ask for additional time to consult with legal to see if this board can take this type of stand.

STIFF Why don't we just let HP approval stand? Why did the HP allow the temporary signage?

- VANZANDT The historic board is looking at it in a different view. They are looking at it from the aspect of how it will impact the environs of the Historical District not the size, shape, and nature of the sign. Your board is looking at it from a different aspect, not what its impact is on the historical environs.
- FOSTER I think Mr. Vanzandt provided some valuable input. I agree that the Historic Board is looking at it in a different aspect. They are not looking at whether or not it adheres at the sign regulation as we are. We have that responsibility to make certain it meets sign regulations. I worked with these types of regulations for 44 years in Kansas and I have never seen a temporary signage case such as this allowed.
- BLICK I am reading from the sign regulation code on page 24. A) No temporary sign shall exceed 128 square feet as permitted. Also the last one, J) and the temporary sign should be removed in 30 days. Here shows two things the size and the timeline.
- MCNEELY We would dispute that from a technical stand point. Mr. Schroeder does not see this as a temporary sign. He does not see this sign as a banner. He sees it as a sign with a limited amount of time. I think you are getting hung up on the word temporary. We are looking at temporary as a condition that will possibly mitigate impact on the community and possibly make this feasible and met the five criteria. We are throwing out the word temporary to view it as a sign. It is not a banner that goes up and is removed immediately within 30 days. The function of this board is to see if exceeding 20% of the façade and 400 square feet meets the five criteria to authorize the request. This variance request is for a sign that exceed the size limitation. We are to determine if the 5 criteria are met. This is a sign that is going up and lasting longer than a normal 30 day temporary signage limit. We are viewing this sign as something that is not going to be there forever. I can easily see where one would think this will not meet the five criteria. However, I do not see how this particular type of signage can be viewed as not being unique.
- BLICK I see it as a temporary sign. Although, it is not wired up like a banner and removed immediately; it is like a sticker on the side of the building basically and it is temporary in nature. I see it as a temporary sign because it is gaining markets same as banners. I don't know if Kurt is available to explain it in more detail.
- MCNEELY Kurt has made his ruling. He said it is a sign. A temporary sign is for 30 days. This is longer than 30 days. He is not seeing it as a temporary sign. I appreciate your perspective. I want to bring it back to the variance request to exceed 20% of the building façade and exceed more than 400 square feet. I can understand why the board members may not see the 5 criteria as being met. We understand it is not permanent, that is something that makes it more unique.

STIFF I would like to read "the Board of Zoning Appeals may reverse, or affirm

wholly or partially or may modify the interpretation of the zoning administrator.”

MCNEELY That is a good thing to discuss. That is a case is where the applicant disagrees with the interpretation of the zoning administrator and the applicant has a right to bring the interpretation before this board to ask for reinterpretation. What we have here today is a variance request which must meet the 5 criteria for approval. We do not have a challenge of the zoning administrator’s interpretation today.

STIFF We do not have to accept Mr. Schroeder’s interpretation is what I am saying.

FOSTER I have always tried to be fair minded with all the applicants that bring cases before us. I would question the uniqueness. I think the uniqueness need to be re-written. I would want staff to re-write the staff report analysis, with regarded to many other tall buildings, re-written in a way so it does not set us up, to not be a hardship for not being visible to Kellogg. I think we need to be concerned with visual pollution. How does the wording speak to the spirit and intent and not having it 8 time the size. He needs to return this with the next regular meeting.

GREENLEE I’m sorry this is not part of the motion. We currently have a motion on the table and what I hear you saying is not a part of that motion. Do you have any withdrawal?

FOSTER I would like to withdraw the earlier motion

STIFF I consent.

FOSTER I would like to make a motion to direct staff re-write the staff report. 1) I wonder if this is correct, I think they need the uniqueness re-written to indicate. 2) Adjacent; is okay. 3) Hardship needs to be rewritten to not set us up in the future as not to consider it a hardship for not being visible to Kellogg. 4) Public Interest; we need to be concerned with the visual pollution; I do not think we will be served well with a 3200 square foot sign. 5) Spirit and Intent; we need to look at the wording of the code to make certain this sign is meeting the spirit and intent of the code.

ANTHIMEDES I second the motion to table it with conditions cited by Foster to be addressed.

STIFF I am not trying to make Law Kingdon’s job hard. I do want you to have the sign.

FOSTER I was thinking it would be included back in the report, not a separate meeting.

MCNEELY I can go back and re-write the 5 criteria.

FOSTER Spirit and Intent would also include a sign 8 times the authorized size.

MCNEELY Okay

MARKER Part of this is clarification. Looking at this as a permanent location, in Kurt's opinion, it is a sign, correct? Realistically looking at this sign the bottom part of picture, this can be a mural. Looking at the top part, the true signage piece, we are looking at rather than being 400, it is 600 square feet. Rather than tabling this until next time, in trying to make this expeditious for the client, to me we are looking at a process where the bottom part is a mural and the top part as signage. Would that be any different? If you are looking from Kellogg, you will see many signs over 400 square feet. I think the precedence for over 400 square feet is there. The part of tabling this to the next time does not make sense to me. I think we have all the ingredients here to make a decision.

FOSTER Well there has to be another hardship listed here. Because the only hardship this report has written here, is it is not visible from Kellogg so we need another one.

MCNEELY The other hardship would be having a 400 square foot sign would not be proportionate given the size of the building.

GREENLEE I think they can make the bottom a mural, squish the upper part to 400 and meet his condition. Then if he wants, he can come back and request a variance to increase the sign portion to 600. I think the agent and the applicant should consider the design and take it into consideration.

GREENLEE All in favor say aye

MOTION CARRIES 6-0 UNANAMIOUSLY

GREENLEE Mr. Foster's motion has passed. Please urge the applicant to reconsider the design.

MCNEELY We will take a look at it and see if the applicant will modify the plans.

APPLICANT: What is the motion?

ANDERSON Motion withdrawn and the Board wants the staff report 5 criteria rewritten.

MCNEELY The first motion was withdrawn, the next motion approved staff to re-write the staff report to better address the uniqueness in comparison to other tall buildings in downtown, look at the hardship to see whether being visibility or lack thereof from Kellogg is a hardship, relook the public interest, the

spirit and intent, along with Kurt's interpretation on temporary.

GREENLEE Next we will hear case BZA 2009-20

Jess McNeely, Planning staff, I am here to present BZA2009-20 City sign variance to increase the height of a pole sign from 22 to 26.4 feet, and to increase the size from 32 to 118 square feet with an electronic message board, for an office use. **BACKGROUND:** The Sign Code limits pole signs in GO General Office ("GO") zoning to a maximum of 32 square feet per tenant, with a maximum height of 22 feet. Multi-tenant pole signs in GO zoning have a maximum size of 96 square feet. Also, the sign code requires an administrative adjustment for electronic message board signs in GO zoning. The sign code prohibits moving images on electronic message board signs in GO zoning, and limits brightness. The single-tenant applicant wishes to have a 26.4 foot tall, 118 square foot sign, approximately 38 square feet of which would be an electronic message sign, in GO zoning for an office use. Therefore the applicant requests this variance (see the attached drawings). The requested 26.4 foot sign height is 20% greater than the maximum allowable height, and could be approved via an administrative adjustment. The requested size, 118 square feet, is the sign size that would be permitted by right if the site were zoned LC Limited Commercial ("LC") and not the current GO. The application area is an office building on the north side of the West Kellogg expressway. The applicant feels that the requested size and height increase are necessary for adequate visibility from the Kellogg expressway.

The proposed sign location is approximately 125 feet from the nearest residentially zoned property. Property north and northwest of the site is zoned SF-5 Single-family Residential ("SF-5") and developed with residences. The existing building on the site will screen the sign from the residential property north of the site. South of the site is the Kellogg expressway, further south is the U University ("U") zoned Newman University. Property immediately west of the site is zoned GO and developed with a single-family residence. Property east of the site is zoned GO and is vacant.

ADJACENT ZONING AND LAND USE:

NORTH	SF-5	Single-family Residential
SOUTH	U	Kellogg expressway, Newman University
EAST	GO	Vacant
WEST	GO, SF-5	Single-family Residential

The five criteria necessary for approval as they apply to variances requested.

UNIQUENESS: It is staff's opinion that this property is unique. As GO zoned property, the site has frontage along the Kellogg expressway which could accommodate commercial zoning and associated increased signage. Likewise, the site size could accommodate multiple tenants, which would increase the allowable sign size. The applicant is a single tenant whose land use is accommodated under the current GO zoning.

ADJACENT PROPERTY: It is staff's opinion that the requested variance to increase the size and height of a pole sign would not adversely affect the rights of adjacent property owners. Property due east and west of the sign, in view of the sign face, is also zoned GO.

Mitigating landscaping along the west property line could ensure that the sign does not affect nearby residences west of the site. The existing building on the site will screen the sign from the residential property north of the site.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the sign code would constitute a hardship upon the applicant. The sign code 32 square foot pole sign size limit and 22-foot height limit does anticipate freeway frontage and necessary visibility.

PUBLIC INTEREST: It is staff's opinion that the requested variance to increase the size and height of a pole sign would not adversely affect the public interest. The requested sign size is consistent with commercial zoning signage with this frontage, and the height increase is 20%, a common range for administrative adjustments in other situations. Adequate visibility of this sign from Kellogg is in the public interest. Maintaining GO zoning on this site is more compatible than commercial zoning with the single-family neighborhood to the north and west of the site.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance for increased sign size and height does not oppose the general spirit and intent of the Sign Code. The Sign Code restriction for pole sign size and height in GO zoning does not take into consideration freeway frontage. The spirit and intent of the sign code is for adequate identification of facilities without negative effects on residences, this variance request is consistent with that spirit and intent.

RECOMMENDATION: It is staff's opinion that the requested sign size and height increase for an office along the Kellogg expressway frontage is appropriate. Landscaping mitigation would ensure that the sign does not negatively affect residences west of the site. Should the Board determine that the conditions necessary for a variance exist, the Secretary recommends that a variance to permit an increase in height for a pole sign from 22 to 26.4 feet, and to increase the size from 32 to 118 square feet, with an electronic message board for an office use in GO zoning be GRANTED, subject to the following conditions:

1. The sign shall be developed in conformance with the approved site plan and elevation drawing.
2. The applicant shall submit a landscape plan, to be approved by staff. The landscape plan shall demonstrate evergreen trees, consistent with the landscape code, spaced 20 feet on center along the southern 80 feet of the west property line.
3. No animated, flashing or moving images or text shall be displayed on the sign; the sign shall not make copy or graphics changes faster than once per second.
4. The applicant shall obtain all permits necessary to construct the signage and the signage shall be erected within one year of the variance granting, unless such time period is extended by the BZA.
5. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

Are there any questions of staff on this request?

FOSTER I do not see any other signs around it. Can you justify the height of the pole?
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MCNEELY Twenty-two feet is what they are authorized under the code. If they wanted only a increase in height, they could have gotten it under the administrative adjustment because they are only asking for a 20% increase up to 24.5 feet. The Newman sign across the street is significantly taller than what is requested here.

FOSTER That is a flat area along there. Isn't that lower there?

MCNEELY The site is lower. Kellogg is elevated a few feet from the property building and parking.

STIFF The property adjacent from there? What is that strip?

MCNEELY That is City right-of-way there, to help with drainage.

GREENLEE Isn't that Friends to the east?

MCNEELY No, that is church owned property.

BLICK Were the surrounding property owner's notified?

MCNEELY Yes, they all were notified. We have not had any calls from them.

GREENLEE Does the agent or applicant have any to say regarding his case?

GREENLEE Is there a motion?

BLICK I move that the board accept the finding of fact as set forth in the secretary's report that all five conditions set out in 2.12.590 B as necessary for the granting of a variance have been found to exist and that the variance be granted subject to the conditions set out in the secretary's report.

STIFF Seconded

GREENLEE Any discussion of motions, seeing none , all in favor say aye?

Motion carries 6-0 unanimously

GREENLEE Next we have the Delano Overlay district parking standards

MCNEELY I drafted a letter as requested by this body, discussing the need for parking variances. In review with other planning staff, I am now aware that a comprehensive plan for downtown that entails a parking study is currently in the works. This study will start from the east on Washington, over Douglas and west to Seneca. My supervisor is asking that we hold off from contacting the Delano neighborhood and business associations until the parking standards study is completed in September 2009. This study will

give recommendations for parking issues in downtown. I recommend that this body make a motion to re-visit this issue when this study is done and all their recommendations are in. Possibly the ball will get rolling and things will get done following the study.

BLICK Motion to approve the staff recommendation.

ANTHIMEDES Seconded.

Motion carries 6-0 unanimously

GREENLEE Are there any reports from OCI?

MCNEELY JR Cox was unable to be here and has nothing to report.

FOSTER Motion to adjourn.

STIFF Seconded

FOSTER Do we have any cases next month?

MCNEELY If we can get a response back from the applicant today in time to meet next month, we will have a hearing.

Adjourned 3:19pm